

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PRIME HEALTHCARE FOUNDATION –)	CASE NO.
EAST LIVERPOOL, LLC D/B/A EAST)	
LIVERPOOL CITY HOSPITAL,)	JUDGE
)	
Plaintiff,)	
)	Removed from
v.)	Columbiana County Court of Common
)	Pleas (2022-cv-234)
AETNA HEALTH INC.,)	
)	
Defendant.)	

DEFENDANT AETNA HEALTH INC.’S NOTICE OF REMOVAL OF ACTION

Defendant Aetna Health Inc. (“AHI”) submits this Notice of Removal of Action pursuant to 28 U.S.C. §§ 1441(a) and (b), 1332, and 1446, and in support states the following:

1. On May 31, 2022, Plaintiff Prime Healthcare Foundation – East Liverpool, LLC d/b/a East Liverpool City Hospital (“Prime”) filed an action in the Columbiana County, Ohio Court of Common Pleas, captioned *Prime Healthcare Foundation – East Liverpool, LLC d/b/a East Liverpool City Hospital v. Aetna Health Inc.*, Case No. 2022-cv-234 (the “State Court Action”). The Summons and Complaint, copies of which are attached as Exhibit A, were served on AHI on June 7, 2022. Exhibit A constitutes all the process, pleadings, and orders in the State Court Action.

2. Prime alleges in its Complaint that it is a Delaware limited liability company authorized to transact business in the State of Ohio, with its principal place of business in Columbiana County, Ohio. [Complaint ¶ 3.] Upon information and belief, the citizenship of Prime’s members is diverse to AHI’s citizenship.

3. The Complaint alleges that AHI is a “Pennsylvania corporation authorized to transact business in the State of Ohio.” [Complaint ¶ 4.] AHI is now, and at all relevant times was, a Pennsylvania corporation with its principal place of business in Blue Bell, Pennsylvania.

4. Accordingly, Prime and AHI are diverse for purposes of citizenship.

5. Moreover, while Prime references “Affiliates” of AHI that purportedly reside in Ohio, those entities are not named defendants and are not parties to the Facility Participation Agreement. As such, they cannot be considered by the Court when evaluating diversity jurisdiction. *See Lincoln Property Co. v. Roche*, 546 U.S. 81, 84 (2005) (holding that “Defendants may remove an action on the basis of diversity citizenship if there is complete diversity between all *named* plaintiffs and all *named* defendants, and no defendant is a citizen of the forum State. It is not incumbent on the named defendants to negate the existence of a potential defendant whose presence in the action would destroy diversity.”) (emphases added).

6. In the State Court Action, Prime asserted a claim for breach of contract against AHI.

7. Federal law vests district courts with original jurisdiction where the matter in controversy exceeds \$75,000, exclusive of interests and costs. 28 U.S.C. § 1332(a). “If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332(a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy.” 28 U.S.C. § 1446(c)(2).

8. The total damages sought by Prime in the State Court Action are in excess of \$75,000, exclusive of interest and costs. In its Complaint, Prime alleges that AHI owes Prime “more than \$6,000,000 . . . for in-network emergency care and other medical services that [Prime] provided to hundreds of patients who had insurance coverage under an Aetna-administered health care benefit plan.” [See Complaint ¶ 1.]

9. The district courts of the United States have original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between the parties, and AHI can show that the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs, beyond a preponderance of evidence.

10. The Eastern Division of the United States District Court for the Northern District of Ohio embraces the place where the State Court Action is pending.

11. This Notice of Removal of Action has been timely filed under 28 U.S.C. § 1446(b)(1), i.e., within thirty (30) days after AHI first received the summons of the initial pleading setting forth the claims for relief upon which the State Court Action is based. *See also Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 347 (1999).

12. AHI will give written notice of the filing of this Notice of Removal of Action to Prime as required by 28 U.S.C. § 1446(d) and contemporaneously with this Notice of Removal of Action, file a copy of this Notice of Removal of Action with the Clerk of Courts for the Columbiana County, Ohio Court of Common Pleas, as further required by that section.

13. In filing this Notice of Removal of Action, AHI does not waive any defense or counterclaim that may otherwise be available to it.

WHEREFORE, AHI, in conformity with the requirements set forth in 28 U.S.C. § 1446, gives notice that the State Court Action, which is presently pending in the Columbiana County, Ohio Court of Common Pleas is hereby removed to this Court.

Respectfully submitted,

/s/ Robert J. Fogarty

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*Counsel For Defendant
Aetna Health Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2022, the foregoing *Defendant Aetna Health Inc.'s Notice of Removal of Action* was electronically filed with the Clerk of the Court via the Court's CM/ECF filing system and was served upon the following via electronic mail:

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/s/ Robert J. Fogarty
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